

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

BL(A)CK TEA SOCIETY, et al.,

Plaintiffs,

v.

CITY OF BOSTON,

Defendant.

04

11620

DPW

Civil Action No.

AFFIDAVIT OF URSZULA MASNY-LATOS

I, Ursula Masny-Latos, do declare and state:

1. I make this affidavit based upon personal knowledge.
2. I am the Executive Director of the National Lawyers Guild, Massachusetts Chapter, Inc. ("NLG").
3. I have been in regular contact with the Bl(A)ck Tea Society, United for Peace with Justice and the Boston Coalition for Palestinian Rights throughout their negotiations with the City of Boston ("City") and the Boston Police Department ("BPD") concerning their participation in First Amendment activities while the Democratic National Convention ("DNC") is being held in Boston.
4. In addition, I have participated in numerous meetings that have been held since July, 2003, between representatives of the City, the BPD, the NLG, the American Civil Liberties Union of Massachusetts ("ACLU") and other law enforcement agencies to discuss the issues concerning the

access of demonstrators to the area near the DNC site at the FleetCenter and to delegates and others entering or leaving that site and area.

5. The purpose of those meetings was to establish ways for people to effectively exercise their First Amendment rights and participate in the fundamental democratic process of expressing their views to one of the two major U. S. political parties at its national convention.

6. As a result of those meetings, I was assured that the City and the BPD would provide a useable designated so-called "demonstration zone" ("DZ") near the FleetCenter that could safely accommodate approximately 4,000 people within reasonable sight and sound of DNC delegates and others entering or leaving that site and area. I was also assured that, while vehicles would not be allowed in the neighborhood directly in front of the FleetCenter, in the area designated by the BPD as the soft security zone ("SZ"), people would be allowed to lawfully exercise their rights to free speech and assembly throughout the SZ.

7. On July 14, 2004, I attended a meeting with representatives of the City and the BPD, including BPD Superintendents Robert Dunford and James Claiborne.

8. At this meeting, the City and the BPD informed me

for the very first time that the DZ would be lined by concrete jersey barriers, with two rows of those barriers, set approximately three feet apart, on the side of the DZ closest to the area where buses will drop off DNC delegates, that 8-foot-tall chain link fences would be mounted on the top of each of those two rows of jersey barriers, that a nearly opaque plastic mesh material would cover those chain link fences, and that mesh "netting" would be stretched from the subway track girders (which covered the top of approximately two-thirds of the DZ) to those chain-link fences, covering all of the open air space on that side of the DZ.

9. At the same July 14, 2004 meeting, the City and the BPD also informed me for the first time that an 8-foot-tall chain link fence on top of concrete jersey barriers with gates would be erected around the entire SZ and that people will not be allowed to enter the SZ whenever the BPD or other officials decide that there are too many people already inside the SZ. The City and BPD stated that there were no clear criteria established for determining when there were too many people in the SZ, and that the decision to limit access to the SZ would be at their sole discretion.

10. On July 16, 2004, the BPD informed me for the first time that no one would be allowed to set up tables for the

distribution of political literature anywhere inside the SZ, despite the fact that during previous meetings with the City and the BPD, we had been told that such literature tables would be permitted.

11. I did not see the actual construction of the DZ until Monday, July 19, 2004, one week before the DNC was to begin, as it had been covered by Big Dig rubble and debris and construction material until shortly before that date.

12. Upon viewing the site on July 19 and 20, 2004, it became clear to me that the DZ was totally inadequate for its stated purposes and was not what had been promised by the City and the BPD in the following respects:

a. Most significantly, the presence of the mesh-covered-fence topping each of the double rows of wide concrete Jersey barriers separating the DZ from the DNC delegate bus arrival area effectively prevents anyone in the DZ from seeing arriving delegates, engaging delegates in conversation or debate, or passing any literature to them. We had previously been told by the City and the BPD that there would only be a chain link security fence separating the DZ and the delegates and that demonstrators would be able to hand out leaflets and

other political literature to any DNC delegates or other attendees who desired to receive them;

b. Although we were originally told by the City and the BPD that arriving delegates would have an approximately 10 foot wide pathway between the bus parking area and the DZ to walk along to reach the entrance to the security area surrounding the FleetCenter, the distance between the nearest bus parking area and the nearest part of the DZ actually measures between 40 feet (nearest the FleetCenter) to more than 100 feet (nearest the entrance to the bus area). The farthest bus parking area is more than 300 feet away from the DZ. This distance, combined with the double row of concrete/mesh covered fence barriers places most of the arriving DNC delegates well beyond the sight and sound of people in the DZ;

c. In addition, due to the presence of several structures and large girders supporting the old overhead MBTA Green Line tracks, people in approximately two-thirds of the DZ will be completely unable to see either the DNC delegate bus area or the small stage being set up for speakers

within the DZ itself;

d. The presence of extremely low (approximately 5 1/2 - 7 feet off the ground) large overhead girders and ramps in the rear quarter of the DZ produces an extremely claustrophobic atmosphere in that area, making it physically uncomfortable to stand there;

e. The only entrances and exits from the DZ consist of one approximately 15 foot wide corridor (bounded by construction buildings on one side) near the FleetCenter and one 8 - 10 foot wide corridor at the other end of the DZ which requires people entering or exiting the DZ to duck under the low overhead ramps and girders. This has created an unsafe and potentially life-threatening situation should people try to leave the DZ rapidly if a confrontation develops between groups of differing political philosophies which have been granted a permit to use the DZ;

f. A construction crew is hanging what appears to be wire mesh netting over the top of the one-third of the DZ that is not covered by the MBTA ramps and Green Line tracks, and that netting hangs down to within 10-12 feet off the ground in many places;

13. Walking through the DZ, even without the presence of the 4,000 demonstrators which it purportedly was designed to accommodate, I had a strong feeling of being trapped inside a cage, with significant barriers all around and above me, in direct contradiction to the consistent promises made by the City and the BPD that they had no intention of creating a "pen" for First Amendment activities. I would be very concerned for my safety and well-being if I had to enter the DZ in order to try and communicate with DNC delegates or listen to the speeches of groups occupying the DZ.

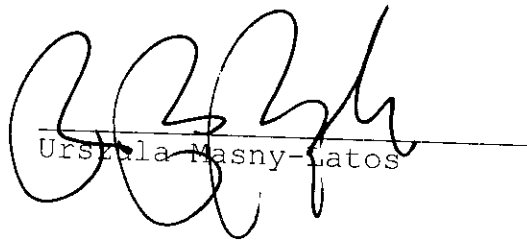
14. I can see that there are easily available alternatives that would be secure, while ensuring that demonstrators are within reasonable sight and sound of DNC delegates and able to engage with them in a meaningful way through dialogue and literature exchange. If the barrier between the DZ and the DNC delegate bus arrival area was constructed as originally stated by the City and the BPD (a single chain link security fence of reasonable height, without a concrete jersey barrier base, without opaque mesh covering and overhead netting, and with most of the DZ not located under the MBTA overhead tracks) and the walkway for the delegates between the DZ and the bus parking area was 10 feet wide as originally promised, demonstrators would be able to

engage in dialogue with delegates and would be able to hand leaflets and other political literature to delegates who are interested in receiving the materials. In addition, a less tightly confined and enclosed DZ would alleviate some of the concerns about safety and the feeling of being caught in a pen or cage which the current configuration engenders.

15. I am not aware of any other situation in which access to government officials, other than the President of the United States, has been so limited by physical barriers such as those constructed around the DZ. Neither the Massachusetts State House, including our Governor's Office, nor City Hall, nor the United States Congress have placed such physical barriers in the path of demonstrators or others seeking to redress grievances with government officials.

16. Members of the Bl(A)ck Tea Society, United for Peace with Justice and the Boston Coalition for Palestinian Rights have told me that the presence of the physical barriers and restrictions being placed on and around the DZ and the SZ has had a chilling effect on many of their plans to participate in free speech and assembly activities during the week of the DNC. In addition, the current construction of the DZ makes it difficult, if not impossible, for physically disabled people to participate in any activities within that area.

Signed under the pains and penalties of perjury this 21st
day of July, 2004.


Ursula Masny-Latos